

REMARKS

Status of the Claims

[1] As of the Final Action, claims 1-14 were currently pending. Claims 10-13 were withdrawn in response to an election. The Examiner withdrew claim 14 as being directed to a non-elected invention. New claims 15-21 had been presented in a Response to the Final that Requested an Advisory Action. These claims had not been entered.

[2] New claims 15-17 are presented herein. Support for claim 15 may be found in original claim 8. Support for claim 16 may be found in original claim 7. Support for claim 17 may be found in original claim 9. Thus, no new matter has been added.

[3] Claim 1 has been amended herein to recite that the composition consists of a hygroscopic glass frit dispersed in organic medium which comprises an organic polymeric binder and an organic solvent. The binder and the solvent have been specified. Support for this amendment may be found in the specification at least at pg. 4:21-23; pg. 7:19-20 and in original claims 3, 4 and 5. In essence, this amendment added the elements of claims 3,4 and 5 to claim 1. Thus, no new matter has been added.

[4] Claim 2-9 have been canceled herein. As of this paper, there are currently 4 pending claims: 1 and 15-17.

Rejections

Under 35 U.S.C. 112(2)

[5] In ¶3 of the Office Action, claims 1 and 3-9 were rejected under this provision as indefinite because the element "... no desiccant material" was deemed to introduce an illogicality. Claim 1 has been amended to remove the element and to recite "consisting of" instead of "comprising", which vitiates the rejection. Applicants respectfully request its withdrawal.

Under 35 U.S.C.102 (e)

1) Tremel

[6] In ¶6 of the Action, claims 1 - 9 were rejected under this provision as anticipated by U.S. App. Pub. No. 2005/0238803 to Tremel et al. ("Tremel"), which claims priority to U.S. App. No. 60/519,139, filed 12 Nov 2003, one day earlier than the priority date of this application. Tremel was under an obligation to assign and has assigned the invention to E.I. du Pont de Nemours and Company

[7] In the present application, inventors Cho, Tremel and Cardellini, were under an obligation to assign the invention and have assigned the invention to E.I. du Pont de Nemours and Company. Consequently, the invention in the reference and the present invention are commonly owned and not “by another” as required by this provision.

[8] Moreover, Tremel does not anticipate the claims, as amended herein. Tremel discloses a method for adhering a getter material to a surface in which a getter composition is applied to a surface and then densified, which activates the getter material, improving its adhesion to the surface. The Tremel getter may comprise a molecular sieve or a zeolite sieve. The molecular sieve comprises at least one synthetic zeolite or natural zeolite. Amended claim 1 does not recite a synthetic or natural desiccant zeolite getter as disclosed in Tremel Example 1.

[9] For these reasons, Applicants respectfully request the rejection be withdrawn.

2) Cho

[10] In ¶7 of the Action, claims 1 - 9 were rejected under this provision as anticipated by U.S. Pat. No. 6,835,682 to Cho et al. In Cho, inventors Yong Cho and Kenneth Hang were under an obligation to assign and have assigned the invention to E.I. du Pont de Nemours and Company. Consequently, the invention disclosed in the reference and the present invention are commonly owned and not “by another” as required by this provision. Applicants respectfully request the withdrawal of this rejection.

3) Tokuyama

[11] In ¶8 of the Action, claims 1 - 3 were rejected under this provision as anticipated by U.S. Pat. No. 4,615,823 to Tokuyama et al. [“Tokuyama”].

[12] As the Examiner stated, Tokuyama discloses desiccating agents comprising a mixture of a deliquescent salt, a hydrolyzed copolymer of a certain mole percent of vinyl acetate and an unsaturated dicarboxylic acid/ester in which the degree of hydrolysis of the vinyl acetate is not less than 70% by mole; and a fibrous material having a certain diameter and length. The compositions in Tokuyama Table 3 were deemed anticipating when the glass fibers were used as the fibrous material.

[13] Tokuyama does not anticipate the claims as amended inasmuch as the present invention comprises no recited desiccating agents. Moreover, Tokuyama does not disclose the recited binder and solvents. Applicants respectfully requests the withdrawal of this rejection.

4) *Shores '707*

[14] In ¶11 of the Action, claims 1-3 are rejected as anticipated by U.S. Pat. No. 5,244,707 to Shores, particularly by Example 2.

[15] From the specification, pg. 2: 4-7, Shores '707 discloses a sealed enclosure of an electronic device that incorporates a coating/adhesive having desiccant properties and comprising a protonated alumino silicate powder dispersed in polymer. Claim 1 as amended consists of a hygroscopic glass frit and organic medium. Since the present invention does not contain a protonated alumino silicate powder, Shore '707 does not anticipate the present invention. Applicants respectfully request the withdrawal of this rejection.

Under 35 U.S.C. 103(a)

1) *Tokuyama*

[16] In ¶9 of the Action, claims 1 – 9 were rejected under this provision as unpatentable over U.S. Pat. No. 4,615,823 to Tokuyama.

[17] The Examiner states that Tokuyama does not provide a direct teaching by way of an example of the recited polymeric binders used with the recited and organic solvents but that the broad disclosure in Tokuyama provides sufficient motivation to arrive at the recited polymeric binders and organic solvents.

[18] The Examination Guidelines for Determining Obviousness Under 35 U.S.C 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc. [“KSR Guidelines”] at III (A) state that combining known prior art elements is not sufficient to render the claimed invention obvious if the results would not have been predictable to one ordinary skill in the art” and that it is important to identify a reason why a skilled artisan would have combined the elements in the way the claimed invention does.

[19] Tokuyama provides a desiccating agent comprising a deliquescent salt and a hydrolyzed copolymer of vinyl acetate and an unsaturated dicarboxylic acid plus a short cut fibrous material. Tokuyama's technical solution, then, is to provide a qualifiedly recyclable desiccating agent that may contain vermiculite or perlite and **is used in air** and does not need to be packed into a container. Tokuyama, col. 1: 17-25, 48-49. Although the Tokuyama deliquescent salt is hygroscopic, the Tokuyama composition has little to teach a skilled artisan about the manufacture of a getter composition for controlling impurities in a sealed **enclosure container in an electronic context**.

[20] Since the Office Action uses Tokuyama to reject the claims on the basis of its suggestion of a dessicating function but does not actually disclose enough of the method, means or mechanism of moisture getting of the recited composition, which lies in the recited elements, Tokuyama cannot set forth a prima facie case of obviousness under the KSR Guidelines. Put differently, the recited elements of the composition serve as the moisture getting mechanism of the present invention. Tokuyama does not recite all of the recited elements but merely suggests a desiccating function. The KSR Guidelines make clear that the mere combination of elements without a rationale that describes the methodology of the present invention is insufficient to predict the present invention and therefore cannot ground an obviousness rejection. Simply, without disclosing all of the recited elements, Tokuyama cannot predict the present invention. Applicants respectfully request the withdrawal of this rejection.

2) Burroughs

[21] In ¶10 of the Action, claims 1 - 7 and 9 were rejected under this provision as unpatentable over U.S. Pat. No. 3,235,089 to Burroughs. Burroughs discloses a composite absorbent filter body having an absorbant material consisting of molecular sieves, activated alumina and mixtures thereof, fused together by an absorbent glass frit at a maturing temperature between 750°F and 2000°F or

[22] Amended claim 1 does not recite added desiccants and absorbers as in Burroughs. Moreover, Burroughs does not disclose the recited polymeric binders and solvents. Therefore, Burroughs does not teach all the claimed elements.

[23] Not only must the obviating reference or combination disclose all elements, but it must predict the present invention according to known methods to yield a predictable result. KSR Guidelines, I(A). Burroughs cannot predict the present invention as its disclosed methodology would not lead one of skill in the art to arrive at the recited invention. For example, Burroughs uses a binder to adhere unfired glass frit particles and adsorbents that do not easily adhere together by themselves. The Burroughs binder is generally colloidal clay-like or plastic material (col. 3:66-74). The recited binders do not include colloidal clays or plastics. Essentially, the Burroughs methodology is aimed at providing a filter body that has “activated” alumina or a molecular sieve and adding other elements that facilitate the functioning of these critical elements. .

[24] Applicants respectfully assert that Burroughs does not predict the present invention nor sets forth a prima facie case of obviousness and request the withdrawal of this rejection.

3) *Shores '707*

[25] In ¶12, claims 4 – 9 were rejected under this provision as unpatentable over Shores '707. Claims 4-9 have been canceled by amendments herein. Applicants respectfully request the withdrawal of this rejection.

4) *Shores '379*

[26] In ¶13, the Office Action rejected claims 1-9 under this provision as unpatentable over U.S. Pat. No. 5,591,379 to Shores. Shores '379 does not disclose the invention as now recited. The Examiner states that Shores teaches a composition used as a desiccant in a hermetic electronic device, which is finely dispersed in a binder that is a water vapor permeable solid material. The examiner distinguishes Shores '379 from the present invention in that Shores '379 does not teach that the glass binder is used with a polymeric binder. Moreover, the glasses in Shores '379 require channels or porousness for the water vapor to penetrate. Shore '379, col. 3:45-51. The present invention does not require to be made porous and therefore does not need these channels. See specification, pg. 7:22-24. Thus, to the extent that Shores '379 accomplishes its invention by a methodology or mechanism that is not needed by the present invention, Shores '379 teaches away from the present invention.

[27] This is especially apparent when Shores '379 Examples are considered. The highest temperature to which the Shores '379 composition is exposed during processing and printing is approximately 225°C. This contrasts with the firing range for the present composition of 450°C and 650°C. Firing is done to burn out the organic material in the composition and to sinter the glass frit, thus densifying the layer. See spec., pg. 11:25-32.

[28] This means that the glass frit (or binder, as the Examiner terms it) as combined with the polymeric binder in the present invention are processed in a different way than the Shores '379 composition is processed **because** the recited components differ from those in Shore '379. In other words, although the Shores '379 composition has a similar use and function as the present composition, the Shores '379 composition has different components and is processed differently than the present composition **because of the differences in its components**. Thus, according to the KSR Guidelines, Shores '379 cannot predict the present invention because, although it contains a similar and not an identical set of components, the differences in those components directly accounts for the differences in the method, mechanism and means by which the Shores '379 composition is processed and fundamentally, how it functions.

[29] For these reasons, Applicants respectfully request the withdrawal of this rejection.

[30] In view of the foregoing, Applicants respectfully assert that the claims are in allowable condition and seek an early notice of allowance.

Respectfully submitted,

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